

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to food establishment and food processing plant inspections

The Inspections and Appeals Department hereby amends Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 137F.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 137F.2.

Purpose and Summary

The adopted rule making reflects 2018 Code of Federal Regulations updates and removes the expired transition compliance dates for section 2-102.12 of the 2013 FDA Model Food Code with supplement, which requires the employment of a certified food protection manager.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4027C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 31, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **31.1(2)“a”(4)** as follows:

(4) Food establishments at which food is not prepared, where customers may purchase only commercially prepared ~~nonpotentially hazardous~~ non-time/temperature control for safety foods that are dispensed either unpackaged or packaged and that are intended for off-premises consumption.

ITEM 2. Amend paragraph **31.1(2)“b”** as follows:

b. For all other establishments, the following time frames apply for employment of an individual who is a certified food protection manager:

(1) For ~~establishments newly licensed after January 1, 2014~~ establishments, the requirement of section 2-102.12 must be met within six months of licensure.

(2) ~~Establishments in existence as of January 1, 2014, that do not receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 by January 1, 2018.~~

(3) ~~Establishments in existence as of January 1, 2014, that receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 within six months of the violation.~~

(4) (2) If the individual meeting the requirement of section 2-102.12 leaves employment with an establishment required to meet section 2-102.12, the establishment shall meet the requirement of section 2-102.12 within six months.

ITEM 3. Amend subrule 31.1(4) as follows:

31.1(4) Morel mushrooms. Section 3-201.16, paragraph (A), is amended by adding the following:

“A food establishment or farmers market ~~potentially hazardous~~ time/temperature control for safety food licensee may serve or sell morel mushrooms if procured from an individual who has completed a morel mushroom identification expert course. Every morel mushroom shall be identified and found to be safe by a certified morel mushroom identification expert whose competence has been verified and approved by the department through the expert’s successful completion of a morel mushroom identification expert course provided by either an accredited college or university or a mycological society. The certified morel mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom. A morel mushroom identification expert course shall be at least three hours in length. To maintain status as a morel mushroom identification expert, the individual shall have successfully completed a morel mushroom identification expert course described above within the past three years. A person who wishes to offer a morel mushroom identification expert course must submit the course curriculum to the department for review and approval. Food establishments or farmers market ~~potentially hazardous~~ time/temperature control for safety food licensees offering morel mushrooms shall maintain the following information for a period of 90 days from the date the morel mushrooms were obtained:

“1. The name, address, and telephone number of the morel mushroom identification expert;

“2. A copy of the morel mushroom identification expert’s certificate of successful completion of the course, containing the date of completion; and

“3. The quantity of morel mushrooms purchased and the date(s) purchased.

“Furthermore, a consumer advisory shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means that wild mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”

ITEM 4. Amend subrule 31.1(16) as follows:

31.1(16) Nonprofit exception for temporary events. Nonprofit organizations that are licensed as temporary food establishments may serve ~~nonpotentially hazardous~~ non-time/temperature control for safety food from an unapproved source for the duration of the event.

ITEM 5. Amend subrule 31.2(1) as follows:

31.2(1) Definitions. For the purposes of this rule, the following definitions shall apply. The definitions of “food,” “label,” “labeling,” and “dietary supplement” are as defined in 21 U.S.C. Section 321 (2012).

ITEM 6. Amend subrule 31.2(2) as follows:

31.2(2) Prohibited acts. The prohibited acts identified in 21 U.S.C. Section 331(a) to (f), (k), and (v) (2012) shall also be prohibited acts in Iowa.

ITEM 7. Amend subrule 31.2(9), introductory paragraph, as follows:

31.2(9) Adoption of Code of Federal Regulations. The following parts of the Code of Federal Regulations (April 1, 2017 2018) are adopted:

ITEM 8. Amend paragraph **31.2(9)“v”** as follows:

v. 21 CFR Part 117, current good manufacturing practice and hazard analysis and risk-based preventive controls for human food, as follows shall apply, with the following exceptions:

(1) ~~As of October 1, 2017, subparts A, B and F of 21 CFR 117 shall be in effect for all food processing plants.~~

(2) ~~As of October 1, 2017, all other subparts of 21 CFR 117 shall be effective upon the effective date established by the federal government.~~

(3) (1) ~~As of October 1, 2018, qualified~~ Qualified facilities, as defined in 21 CFR 117, shall not include food processing plants manufacturing foods for interstate commerce or for use as an ingredient to other foods.

(2) Warehousing operations located on the premises of residences that store food for sale directly to a consumer customer or at a farmers market shall comply with subparts A, B, and F of 21 CFR 117.

ITEM 9. Amend subrule 31.2(10) as follows:

31.2(10) Egg products processing plants. The department shall generally use the good manufacturing practices adopted in paragraph 31.2(9) “b,” unless such practices are inconsistent with standards set by the United States Department of Agriculture, Food Safety and Inspection Service, in 9 CFR Parts 590-592, January 1, 2015 2018. If the standards are inconsistent, the standards adopted in 9 CFR Parts 590-592, January 1, 2015 2018, apply.

ITEM 10. Amend rule 481—31.5(137F), introductory paragraph, as follows:

481—31.5(137F) Temporary food establishments and farmers market ~~potentially hazardous time/temperature control for safety~~ food licensees. While the retail food code adopted in rule 481—31.1(137F) applies to temporary food establishments, the following subrules provide a simplified version of requirements for temporary food establishments. If the two rules are inconsistent, the standards in this rule apply.

ITEM 11. Amend paragraph **31.5(1)“c”** as follows:

c. All employees, including volunteers, shall be under the direction of the person in charge. The person in charge shall ensure that the workers are effectively cleaning their hands, that ~~potentially hazardous time/temperature control for safety~~ food is adequately cooked, held or cooled, and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

ITEM 12. Amend paragraph **31.5(1)“d”** as follows:

d. Employees and volunteers shall not work at a temporary food establishment or farmers market ~~potentially hazardous time/temperature control for safety~~ food establishment if the employees and volunteers have open cuts, sores or communicable diseases. The person in charge shall take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

ITEM 13. Amend paragraph **31.5(2)“b”** as follows:

b. Cold storage. Refrigeration units shall be provided to keep ~~potentially hazardous time/temperature control for safety~~ foods at 41°F or below. The inspector may approve an effectively

insulated, hard-sided container with sufficient coolant for storage of ~~less-hazardous~~ time/temperature control for safety food ~~or the use of such a container~~ at events of short duration if the container maintains the temperature at 41°F or below.

ITEM 14. Amend paragraph **31.5(2)“c”** as follows:

c. Hot storage. Hot food storage units shall be used to keep ~~potentially-hazardous~~ time/temperature control for safety food at 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills capable of holding the temperature at 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/21/18.